

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE LITIGATION

MDL No. 1456
Master File No. 01-12257-PBS

**NON-PARTY EMPIRE BLUE CROSS BLUE SHIELD'S
ASSENTED TO MOTION FOR LEAVE TO FILE REPLY IN FURTHER SUPPORT OF
MOTION TO QUASH SUBPOENA SEEKING DEPOSITION TESTIMONY
AND FOR A PROTECTIVE ORDER**

Pursuant to Local Rule 7.1(B)(3), Empire Blue Cross Blue Shield ("Empire"), a non-party in this action, hereby moves this Court for leave to file a reply memorandum of law in further support of its Motion to Quash Subpoena Seeking Deposition Testimony and for a Protective Order.

The parties' counsel have conferred and defendants have assented to this motion.

Dated: September 20, 2005

EMPIRE BLUE CROSS BLUE SHIELD

By its attorneys,

/s/Theodore M. Hess-Mahan

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CERTIFICATION OF COMPLIANCE WITH LOCAL RULE 7.1(A)(2)

I hereby certify that the parties' counsel conferred in a good faith effort to narrow or resolve the issues raised in this motion. Defendants have assented to this motion.

/s/Theodore M. Hess-Mahan

Theodore M. Hess-Mahan